

AGREEMENT
BETWEEN
THE DEPARTMENT OF THE NAVY
OF
THE UNITED STATES OF AMERICA
AND
THE CHILEAN NAVY (ARMADA NAVAL DE CHILE)
REGARDING THE EXCHANGE
OF
ADMINISTRATIVE AND PROFESSIONAL PERSONNEL
IN FINANCIAL MANAGEMENT HEADQUARTERS ORGANIZATIONS

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PREAMBLE

The Department of the Navy of the United States of America (U.S.) and the Navy of the Republic of Chile, hereinafter referred to as "the Parties," have agreed as follows:

ARTICLE 1

DEFINITION OF TERMS

The Parties have agreed upon the following definitions for terms used in this Agreement:

Administrative and Professional (A&P) Personnel	Military or civilian employees of the Department of Defense or Ministry of Defense who perform professional and/or administrative, logistics, health, financial, planning or other support functions. The references to the Chilean Ministry of Defense Personnel, in this Agreement, must be understood as to the Chilean Navy Personnel.
Classified Information	Official information requiring protection in the interests of national security and is so designated by the application of security classification markings.
Controlled Unclassified Information	Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under an Agreement, the information shall be marked to identify its "in confidence" nature. It could include information that has been declassified, but remains controlled.
Exchange Program	The exchange of personnel under this Agreement.
Host Organization	The organization of each Defense Department/Ministry to which exchange personnel are assigned for duty pursuant to this Agreement.
Host Party	The Department of Defense or Ministry of Defense to which the Host Organization belongs.
Information	Any knowledge, regardless of form, provided to, generated in, or used in this Exchange Program.
Parent Organization	The organization of each Defense Department/Ministry to which exchange personnel belong.
Parent Party	The Department of Defense or Ministry of Defense to which the Parent Organization belongs.

ARTICLE II

PURPOSE AND SCOPE

2.1. This Agreement establishes the terms and conditions by which the Department of the Navy of the United States of America and the Chilean Navy (hereafter referred to as "the Parties") agree to exchange defense (military or civilian) personnel and to provide these exchange personnel on-site working assignments in agreed A&P positions. The work assignments shall provide A&P personnel work experience and knowledge of the organization and management of Host Party defense activities by performing duties under the direction of a host supervisor. Exchanges of A&P personnel under this Agreement shall be conducted on a reciprocal basis so that the overall benefit to each Party shall be essentially equal. This Exchange Program shall not include training, except as provided in paragraph 5.4, and it is not to be used as a mechanism for the exchange of information between the Parties.

2.2. A&P personnel shall not be assigned to positions under this Exchange Program that would involve the release of Restricted Data or Formerly Restricted Data as defined in the U.S. Atomic Energy Act of 1954 as amended; communications security information; information for which foreign dissemination has been prohibited in whole or in part; information for which a special access authorization is required; information originated by another organization, department, agency or government; or controlled unclassified information, unless the specific information has been authorized in writing for release to the government of the Parent Party under an existing program or with the prior written consent of the appropriate disclosure authority, whichever is applicable.

2.3. A&P personnel shall not act in a liaison capacity or otherwise act as representatives of the Parent Party while assigned to exchange positions, nor shall they act as representatives of the Host Party to which they are assigned. A&P personnel shall perform duties as defined in the position descriptions (PDs) for their respective positions.

2.4. A&P personnel shall be nominated and assigned to positions with a Host Organization in accordance with the procedures at Annex A.

2.5. The Parties shall designate Executive Agents to oversee the Exchange Program established by this Agreement. The Executive Agents shall have the responsibilities described in Article III, below.

ARTICLE III

EXECUTIVE AGENTS

3.1. For the Department of the Navy of the United States of America, the Executive Agent (EA) for this Agreement shall be the Office of the Assistant Secretary of the Navy (Financial Management and Comptroller). For the Chilean Navy, the Executive Agent shall be the General Directorate of Finance of the Chilean Navy. The Executive Agents shall be responsible for:

- 3.1.1. periodically reviewing this Agreement to ensure conformity with current law and regulations;
- 3.1.2. recommending amendments to this Agreement; and
- 3.1.3. maintaining a record of exchange positions and position descriptions;
- 3.1.4. entering into specific exchanges;
- 3.1.5. ensuring that exchanges are conducted in accordance with the approved position descriptions, applicable laws and regulations, and this Agreement;
- 3.1.6. approving amendments to position descriptions.

ARTICLE IV

SELECTION AND ASSIGNMENT OF PERSONNEL

4.1. Participation in this Exchange Program shall be on a highly selective basis from among career military and civilian personnel of the U.S. Department of the Navy and the Chilean Navy. The Parent Organization shall be solely responsible in the selection of its A&P personnel based on the following criteria:

4.1.1. They must have demonstrated capabilities for future positions of greater responsibility.

4.1.2. They must be well-versed in the current practices, technical training and doctrine of their organization, and be particularly qualified through experience for the exchange positions to be occupied.

4.1.3. They must possess the grade, skill, training, and academic qualifications that are described in the applicable position descriptions.

4.1.4. They must be sufficiently proficient in the language of the Host Party to satisfy the requirements of the positions.

4.1.5. They should hold at least an undergraduate degree or equivalent professional qualifications and have at least four years of practical experience in the professional administrative area related to the positions to which they shall be assigned.

4.2. To assist in the evaluation and selection of A&P personnel, the EAs should provide professional background resumes, career areas of interest, and assignment objectives for each candidate, following the format of Appendix 1 of Annex A, to each other nine months prior to the desired date of each assignment. Final selection of A&P personnel shall be by mutual agreement between the EAs, normally at least four months prior to the assignment.

4.3. The placement of A&P personnel nominated under this Exchange Program shall be conditional upon the ability of the Host Organization to provide work assignments commensurate with the purpose and scope of this Exchange Program for a mutually agreed period of time.

4.4. Consistent with the nomination process, the Host Party shall be authorized to discharge A&P personnel from this Exchange Program who do not meet the above criteria. This decision is within the sole discretion of the Host Party.

ARTICLE V

FINANCIAL ARRANGEMENTS

5.1. The Parent Party's responsibilities shall include, but shall not be limited to, the following costs for its A&P personnel:

5.1.1. All pay and allowances.

5.1.2. Travel to and from the country of the Host Party.

5.1.3. All temporary duty costs, including travel costs, when such duty is carried out at the request of the Parent Party.

5.1.4. The movement of dependents and the household effects of A&P personnel.

5.1.5. Preparation and shipment of remains and funeral expenses in the event of the death of A&P personnel or their dependents.

5.1.6. All expenses in connection with the return of A&P personnel who have been discharged from this Exchange Program and their accompanying dependents.

5.2. The Host Party shall be responsible for the following:

5.2.1. Travel and subsistence costs in connection with the performance of any duty carried out pursuant to a requirement of the Host Party.

5.2.2. Costs incurred as a result of a change in location of work ordered by the Host Party during the period of the exchange.

5.3. The Host Party shall not charge for the use of facilities or equipment necessary for the performance of tasks assigned to A&P personnel.

5.4. The Parent Party shall pay the costs of formal and informal training and professional military education (PME).

5.5. The Host Party shall not provide any supplies or services related to those costs that, by virtue of paragraph 5.1 above, are the obligation of the Parent Party. Accordingly, it shall be necessary for the Parent Party to make arrangements to defray such costs directly through its personnel, rather than by reimbursement to the Host Party.

5.6. The obligations of each Party under this Agreement shall be subject to the authorization and availability of funds.

ARTICLE VI

SECURITY

6.1. During the selection process, each Party shall inform the other of the level of security clearance required, if any, to permit A&P personnel to have access to classified information and work areas. Access to classified information shall be consistent with Article II, paragraph 2.2. of this Agreement and shall be kept to the minimum required to accomplish the work assignment, as determined by the Host Party based on the applicable position description.

6.2. Each Party shall cause security assurances to be filed, through the Embassy of Chile in Washington, DC, in the case of the Chilean Navy personnel, and through the U.S. Embassy in the Republic of Chile, in the case of the United States personnel, stating the security clearances for all A&P personnel selected. The security assurances shall be prepared and forwarded through prescribed channels in compliance with established Host Party procedures.

6.3. The Host Organization and the Parent Organization shall ensure that assigned A&P personnel are fully cognizant of applicable laws and regulations concerning the protection of proprietary information (such as patents, copyrights, know-how, and trade secrets), classified information and controlled unclassified information to which access might be gained under this program, both during and after termination of an assignment; and shall be required to sign the certification at Annex B.

6.4. A&P personnel shall at all times be required to comply with the security laws, regulations and procedures of the government of the Host Party. Any violation of security procedures by A&P personnel during their assignments shall be reported to the Parent Party for appropriate action. A&P personnel committing willful violations of security procedures during their assignments shall be withdrawn from this Exchange Program with a view toward appropriate administrative or disciplinary action by the Parent Party.

6.5. All classified information made available to A&P personnel shall be considered as Classified Information furnished to the Parent Party, and shall be subject to all provisions and safeguards provided for under the General Security of Military Information Agreement (GSOMIA) in force between the United States of America and the Republic of Chile as of 1 September 1992.

ARTICLE VII

TECHNICAL AND ADMINISTRATIVE MATTERS

7.1. To the extent authorized by its laws and regulations, the Host Organization shall arrange for the provision of administrative support as necessary for A&P personnel to perform assigned tasks efficiently. The Host Organization shall familiarize A&P personnel with any unique procedures necessary for the proper performance of their assigned tasks.

7.2. Consistent with the laws and regulations of the government of the Host Party, A&P personnel assigned under this Agreement shall be subject to the same restrictions, conditions, and privileges as Host Party personnel of comparable rank in their areas of assignment. Further, to the extent authorized by the laws and regulations of the government of the Host Party, A&P personnel and their authorized dependents shall be accorded on a reciprocal basis:

7.2.1. Exemption from any tax by the government of the Host Party upon income received from the government of the Parent Party. The Chilean Navy cannot grant exemptions.

7.2.2. Exemption from any customs and import duties or similar charges levied on items entering the country of the Host Party for their official or personal use, including their baggage, household effects, and private motor vehicles. The foregoing shall not in any way limit privileges set forth elsewhere in this Agreement, or other privileges granted by the laws and regulations of the government of the Host Party. The Chilean Navy cannot grant exemptions.

7.3. A&P personnel and their dependents shall be informed by the Host Organization about applicable laws, orders, regulations, and customs and they shall be required to comply with them. A&P personnel and their dependents also shall be briefed by Host Organization personnel regarding their specific entitlements, privileges, and obligations upon their arrival in the country of the Host Organization.

7.4. A&P personnel may observe the holiday schedule of either the Parent Party or the Host Party as mutually agreed.

7.5. A&P personnel shall be assigned work under the guidance and supervision of a host supervisor. The host supervisor shall establish performance standards and observe the performance of A&P personnel to provide a basis for counseling and performance evaluations. A&P personnel shall have performance evaluations rendered in accordance with the applicable Parent Party regulations.

7.6. A&P personnel committing an offense under the laws of the government of either the Parent Party or the Host Party may be withdrawn from this Exchange Program with a view toward further administrative or disciplinary action by the Parent Party. Disciplinary action, however, shall not be taken by the Host Party against A&P personnel and A&P personnel shall not exercise disciplinary powers over personnel of the Host Party. The Parties shall cooperate when legally possible in carrying out administrative or disciplinary action by the Parent Party against its A&P personnel.

7.7. Any medical and dental care that may be provided to A&P personnel and their dependents at the Host Party medical facilities, shall be subject to the requirements of the laws and regulations of the government of the Host Party, including reimbursement when required by such laws and regulations. Currently, there are no provisions that would permit the provision of medical and dental care to members of the Chilean Navy.

7.8. In no case shall A&P personnel be assigned to positions that would require exercise of command or be assigned to other positions that would require them to exercise responsibilities that are reserved by law or regulation to an officer or employee of the U.S. Government.

7.9. A&P personnel shall not be placed on duty or in positions in areas of political sensitivity where their presence would jeopardize the interests of the Parent Party, or where, in the normal course of their duty, they may become involved in activities that may embarrass the Parent Party.

7.10. The Host Party shall not deploy A&P personnel in non-direct hostility situations, such as UN peacekeeping or multi-national operations, without Parent Party approval. Additionally, A&P personnel shall not be deployed to a third country without Parent Party approval.

7.11. The Host Party shall not place A&P personnel in duty assignments in which direct hostilities with forces of third states are likely. Should a unit in which A&P personnel are assigned become involved in hostilities unexpectedly, A&P personnel assigned to the unit shall not be involved in the hostilities without authorization from the Parent Party. A&P personnel approved by both the Parent Party and the Host Party for involvement in hostilities shall be given clear guidance on the Host Party's interpretation of laws of war, to include the rules of engagement.

7.12. Purchasing and patronage privileges at military commissaries, exchanges, theaters and clubs shall be extended to A&P personnel and their dependents on the same basis as equivalent personnel of the Host Party. This provision shall not, however, limit privileges set forth elsewhere in this Agreement or other privileges granted by the Host Party, at its discretion, with the consent of the Parent Party. The Chilean Navy cannot grant exemptions.

7.13. A&P personnel shall be granted leave according to their entitlements under the regulations of the Parent Organization, subject to the approval of the appropriate authorities of the Host Organization.

7.14. Military A&P personnel shall be required to comply with the dress regulations of the Parent Organization. The order of dress for any occasion shall be that which most nearly conforms to the order for the Host Organization with which they are serving. Customs of the Host Organization shall be observed with respect to wearing of civilian clothes.

7.15. Consistent with the laws and regulations of the government of the Host Party, and upon conditions of reciprocity, the Host Organization shall provide, if available, housing and messing facilities for A&P personnel and their dependents on the same basis and priority as for its own personnel. A&P personnel shall pay messing and housing charges to the same extent as personnel of

the Host Organization. At locations where facilities are not provided by the Host Organization for its own personnel, the Parent Organization shall make suitable arrangements for A&P personnel.

ARTICLE VIII

CLAIMS

8.1. Claims shall be dealt with as follows:

8.1.1. The Parties waive all their claims, other than contractual claims, against each other, and against the military members and civilian employees of each other's Department or Ministry of Defense, for damage, loss or destruction of property owned or used by its respective Department or Ministry of Defense, if such damage, loss or destruction:

8.1.1.1. was caused by a military member or a civilian employee in the performance of official duties, or

8.1.1.2. arose from the use of any vehicle, vessel or aircraft owned by the other Party and used by its Department or Ministry of Defense, provided that the vehicle, vessel or aircraft causing the damage, loss or destruction was being used for official purposes, or that the damage, loss or destruction was caused to the property being so used.

8.2. The Parties shall waive all their claims against each other and against the military members and civilian employees of each other's Department or Ministry of Defense for injury or death suffered by any military member or civilian employee of their Department or Ministry of Defense while such member or employee was engaged in the performance of official duties. Non-applicable clause for the Chilean Navy.

8.3. Claims, other than contractual claims, for damage, loss, injury, or death, not covered by the waivers contained in paragraphs 1 and 2 of this Article, arising out of an act or omission by the military members or civilian employees of its Department or Ministry of Defense, or out of an act or omission for which the Parent Party is legally responsible, shall be presented to the Parent Party for consideration under its applicable laws and regulations.

8.4. A&P personnel and those dependents accompanying them, must obtain motor vehicle liability insurance coverage in accordance with applicable laws and regulations of the government of the Host Party, or its political subdivision, where they are located. In case of claims involving the use of private motor vehicles, the first recourse shall be against such insurance.

8.5. Nothing herein shall be construed as waiving the claims or suits of individual military members or civilian employees of the respective Department or Ministry of Defense, other civilian employees, or third parties that might exist under applicable law.

ARTICLE IX

SETTLEMENT OF DISPUTES

Disputes arising under or relating to this Agreement shall be resolved only by consultation between the Parties and shall not be referred to an individual, a national or international tribunal, or to any other forum for settlement.

ARTICLE X

ENTRY INTO FORCE, AMENDMENT, DURATION AND TERMINATION

10.1. All activities of the Parties under this Agreement shall be carried out in accordance with the national laws and regulations of the Parties.

10.2. In the event of a conflict between an Article of this Agreement and any Annex to this Agreement, the Article shall control.

10.3. Except as otherwise provided, this Agreement may be amended by the mutual written consent of the Parties.

10.4. This Agreement may be terminated at any time upon the written consent of the Parties. In the event both Parties consent to terminate this Agreement, the Parties shall consult prior to the date of termination to ensure termination on the most economical and equitable terms.

10.5. Either Party may terminate this Agreement upon 180 days' written notification to the other Party. Such notice shall be the subject of immediate consultation by the Parties to decide upon the appropriate course of action. In the event of such termination, the following rules apply:

10.5.1. The terminating Party shall continue participation, financial or otherwise, up to the effective date of termination.

10.5.2. Each Party shall pay the costs it incurs as a result of termination.

10.5.3. All information and rights therein received under the provisions of this Agreement prior to the termination shall be retained by the Parties, subject to the provisions of this Agreement.

10.6. The respective rights and responsibilities of the Parties regarding Article VI (Security) and Article VIII (Claims) shall continue notwithstanding termination or expiration of this Agreement.

10.7. This Agreement, which consists of ten (10) Articles and two (2) Annexes, shall enter into force upon signature by both Parties and shall remain in force for ten (10) years. It may be extended by written agreement of the Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their governments, have signed this Agreement.

DONE at VALPARAISO, this 31 day of DECEMBER 2005, two copies in the English language.

FOR THE DEPARTMENT OF
THE NAVY OF THE UNITED
STATES OF AMERICA

Richard Greco, Jr.
(Signature)
Mr. Richard Greco, Jr.
Assistant Secretary of the Navy
Financial Management and Comptroller

FOR NAVY OF THE REPUBLIC OF
CHILE

Mariano Sarbatea St.-L.
(Signature)
(Typed Name) MARIANO SARBATEA ST.-L.
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